

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)
)
v.)
)
MARC CRAIG)
)

NO. 2:04-CR-78

ORDER

Before the Court is the defendant's appeal of the United States Magistrate Judge's Order denying the defendant's motion for a lineup. [Doc. 40]. In that motion, the defendant requested that the Court require the government witnesses who would identify the defendant as the perpetrator to observe this defendant in the context of a lineup, prior to witnessing the defendant in court. Obviously, this request is rather unusual, and the defendant cites to no authority for the Court to conduct such a lineup, but bases his request on his claim that the show-up identification of the defendant by a bank employee was improper, which identification was also the subject of a motion to suppress. Nevertheless, the issue is now moot.

Shortly after the denial of the defendant's request for a lineup by the United States Magistrate Judge, the United States Magistrate Judge conducted a hearing to determine whether the identification testimony of any of the government's witnesses should be suppressed by reason that the methodology used was overly suggestive. At that hearing,

the defendant called as his own witnesses the two persons which the government planned to use at trial for identification of the defendant, that is, the bank teller and the branch manager with the defendant present in the courtroom. Additionally, the defendant's appeal is rendered moot by this Court's adoption of the Report and Recommendation of the United States Magistrate Judge's finding that, given the totality of the circumstances, the show-up identification of the defendant was reliable. [Doc. 46]. Accordingly, the Order of the United States Magistrate Judge denying the defendant's motion for a lineup is **SUSTAINED**.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE